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COMPLETION OF A FRAMEWORK CONVENTION ON CLIMATE CHANGE

Technical review of the revised text under negotiation

Note by the Chairman

1. In conformity with the decision recorded in the report of the Intergovernmental Negotiating Committee on the first part of its fifth session (A/AC.237/18 (Part I), para. 58), the secretariat of the Committee undertook a technical review of the revised text under negotiation.

2. After consultation with the Bureau, the Chairman submits the technical review as a background document for the information of delegations.

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TECHNICAL REVIEW OF THE REVISED TEXT UNDER NEGOTIATION

Report by the Executive Secretary

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Annexes*

I. Consistency of terminology

II. Comparison of principles with relevant elements of the preamble

III. Research, information and education: comparison of relevant general commitments and articles 5, 6 and 7

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* See document A/AC.237/Misc.21/Add.1 (English only).

I. INTRODUCTION

1. The present technical review of the revised text under negotiation has been undertaken by the secretariat of the Intergovernmental Negotiating Committee (INC) in pursuance of the decision of the Committee, on the proposal of the Chairman, at the first part of its fifth session (A/AC.237/18, para. 58). Reference has been made as appropriate to the earlier technical review of the consolidated working document annexed to the report of the Committee on its fourth session (A/AC.237/Misc.18 and Add.1).

2. The text used as a basis for the present review is that contained in annex II of document A/AC.237/18 (Part I), as finally published. References in the review to article headings and other elements of text that are bracketed are not intended to express any opinion on the retention of the texts referred to.

3. The technical review is intended as a background document to be used as a guide by delegates participating in the final stages of drafting the framework convention on climate change.

4. The approach followed continues to be one of highlighting possibilities for improvement in the text and drawing attention to possible problems in its drafting. A number of explicit suggestions are made for dealing with these matters.

5. The INC secretariat has sought and received assistance from the Office of Legal Affairs of the United Nations Secretariat in the preparation of this review; legal advice has been provided by that Office on some of the matters covered.

II. DRAFTING AND ORGANIZATION OF THE FINAL TEXT

A. Preparation of the final text

1. Order and structure

6. The order of the different articles, their titles and the use of subheadings for articulation of the text are all matters on which the Committee will need to agree. In the view of the secretariat, the order and articulation used in the revised text could be retained, subject to decisions on bracketed titles and subtitles. It is presumed that the several indicative (unnumbered) subheadings that appear in articles 5 to 27 and in the annexes will be dropped from the final text.

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B. Clustering of related texts

12. Examination of the revised text leads to the conclusion that there are several closely related clusters of articles and that attention needs to be given to coherence and consistency within each of these clusters, as well as thoughout the text as a whole. Such clusters might also provide a rationale for the division of drafting work. If clusters are used for the purpose of organizing drafting, consideration would have to be given to the order in which they are taken up. There are different ways in which clusters of articles could be delineated; the following is one possible listing, with some explanatory comments as needed.

1. Definitions (article 1)

13. Consideration of "scientific" definitions started at the first part of the fifth session. Comments thereon have been sought from the Intergovernmental Panel on Climate Change (IPCC) through its Secretary, in accordance with the note appended to the list of definitions in the revised text.

14. The character and implementation of the convention would be significantly affected by definitions of the different categories of parties referred to therein. So far, these categories have not been defined, though there would be a place for them in the "second set" of proposed definitions in article 1. Such definitions are not "scientific" and might need to be dealt with separately from those which are.

2. Preamble and Principles (article 2)

15. There is much overlap between the Preamble and the Principles, both in concept and in language. This is largely because of the continuing lack of a final decision by the Committee on the inclusion of an article on Principles. Annex II (see addendum) compares the Principles and the Preamble by juxtaposing each paragraph of the former with related paragraphs of the latter.

3. Objective and Commitments (articles 3 and 4)

16. Although the Objective flows from the preambular considerations and the Principles, it may be best to consider it as an element guiding the Commitments and therefore deal with it in the same cluster. The Commitments themselves are integrated in one article, thus stressing their interrelationships. For the purpose of organizing drafting work it might be useful to subdivide the content of article 4, at least initially.

4. Research, Information and Education (articles 5-7)

17. There is a need to further improve the linkage between this group of articles and subparagraphs (h), (i) and (j) of article 4.1, "General Commitments". One way of achieving this would be as follows:

(a) The content of article 6, "Exchange of Information", which is no longer accompanied by an annex, could be blended with "General Commitment" (i) and the separate article omitted;

(b) The first paragraphs of articles 5 and 7 could be deleted and replaced by chapeau wording such as "In carrying out their commitment under Article 4.1 (h)/(j), the Parties shall:" and the remainder of each article drafted as subparagraphs under the chapeau;

(c) "General Commitments" (h) and (j) could end with words such as "in the manner set out in Article [5][7]".

18. For ease of reference, the texts of "General Commitments" (h), (i) and (j) are juxtaposed with the first paragraphs of articles 5, 6 and 7 in annex III (see addendum).

5. Conference of the Parties, Secretariat and a mechanism for scientific advice (articles 8, 9 and 11)

19. It may be noted in connection with article 11, pertaining to a mechanism for scientific advice, that the Co-Chairmen of Working Group II have written to the Chairman of the Committee requesting an opinion from the Legal Counsel of the Secretariat on the feasibility of giving effect to the proposed alternative C of this article, whereby IPCC would be invited to become part of the structure of the convention upon its entry into force. This request, which emanated from the deliberations of Working Group II, was conveyed by the Chairman to the Executive Secretary, who is expecting a response from the Legal Counsel before the second part of the fifth session.

6. Implementation and reporting (articles 10, 14 and 15)

20. There is an evident relationship between the implementation functions being considered under article 10, the provisions in article 14 relating to reporting by parties on their implementation of the convention and those on "Resolution of Questions" in article 15.

7. Funding mechanisms (articles 12 and 13)

21. Since the proposal on insurance in article 13 pertains to a financial arrangement, it could be considered with article 12.

8. Settlement of Disputes and final clauses (articles 16-27)

22. Article 16, "Settlement of Disputes", is linked to article 15, "Resolution of Questions", and the drafting of the two articles will need to be coordinated.

23. In the final clauses, particular attention needs to be paid to the majority requirements for amendments to the convention and its annexes (articles 17 and 19) and to the entry into force provisions (article 24).

C. Treatment of annexes and of institutional functions and procedures

24. Given the shortage of time remaining to the Committee for completing its work on the Convention, the question arises whether it is possible to dispense with the four annexes currently proposed. One approach would be to consider what material contained in the proposed annexes could be integrated into the main articles and to decide to leave the remaining material for future examination. In the latter case, consideration could be given to arrangements for continuing work on the omitted subjects after the signature of the convention, so that action might be considered by the conference of the parties at its first meeting.

25. Annex I on research and systematic observation and related subjects is presented in two options, each of which contains indicative lists of subjects to be dealt with in future work and concludes with some more operational elements. The listing of areas of work is important to strengthen the scientific basis for future action on climate change; it may not be essential, however, for the listing to be included in the convention at this stage. Work thereon could be continued after the signature of the convention.

26. The concluding elements of annex I that are of an operational nature could be adequately reflected in article 5. Paragraph 3 of the first option for annex I, concerning support for international programmes, could be integrated into paragraph 3 of article 5, which deals with the same subject. Paragraph 4 of the second option, dealing with the particular needs of developing countries with respect to observation and data analysis, research and technological innovation and finance for these purposes, could be integrated into paragraph 2 of article 5, most versions of which deal with the particular concerns and needs of developing countries.

27. Annex II on reporting consists mainly of a list of items that would be included in national reports submitted pursuant to article 14 and of a list of exclusions from such reports on grounds of confidentiality. It may suffice for the present purposes of the convention for article 14 itself to make appropriate reference to the preparation of national reports that would include information on the implementation of all commitments and all other relevant provisions of the convention, as well as on all other actions that are relevant to the achievement of the objective of the convention. The

article could also indicate broad criteria for exclusions from such reports. Work on the format of national reports could be continued after signature, for consideration by the conference of the parties at its first meeting. In particular, it may be considered desirable for national reports to include common elements for the purposes of comparison and aggregation; a description of such elements could be proposed to the conference of the parties.

28. Annex III on arbitration is a description of a relatively standard procedure, related to article 16, "Settlement of Disputes". However, this annex has never been discussed in depth at previous sessions of the Committee. It may, therefore, be sufficient for the convention to indicate in article 16 that the procedure for arbitration should be the subject of an annex to be adopted by the conference of the parties at its first meeting (see Vienna Convention, art. 11, para. 3 (a)).

29. Annex IV on an insurance mechanism contains a detailed proposal for a new financial institution. This has yet to receive the consideration that it would need before agreement could be reached upon it. It might be sufficient at present for article 13 to contain an adequate reference to future action. If appropriate, provision could be made for work on this matter to be continued after signature.

30. An approach similar to that described above could be applied to articles 10, 11 and 12, which deal with three insitutional mechanisms under the conference of the parties, respectively for scientific advice, implementation and finance/technology transfer. In some or all of these cases, consideration could be given to formulating in the convention the decision to establish these mechanisms and a general description of their purposes, leaving the detail of their functioning and procedures to be determined by the conference of the parties. A subsidiary question would be whether to retain separate articles in all three cases or to integrate some of these provisions in the article on the conference of the parties. As in the case of material presently contained in annexes, elaboration of institutional provisions could be continued after signature of the convention, so that proposals might be made to the conference of the parties at its first meeting.

III. TEXTUAL COMMENTS AND SUGGESTIONS ON DRAFT ARTICLES*

General Comments

(a) Various formulations in the Revised Text speak of "objectives". (See e.g. Articles 8.2 (a), (b), (t), 11.1 and 15.3. If the intent is to refer to the Objective in Article 3, this should be made explicit.

(b) It is not always clear from the words "the Parties" whether these refer to all Parties individually or collectively. The same applies, mutatis mutandis, to references to "the developed country Parties" and "the developing country Parties". Where clarity is sought, more precise language could be used, e.g. "each Party", "the Parties individually and collectively".

(c) Different ways of referring to other international bodies are utilized throughout the Revised Text. (See e.g. Articles 5, 8, 9, 10 & 11). They are variously described as "existing", "competent" and/or "appropriate" and referred to as international and/or intergovernmental. Is there a need for consistency in this regard?

Preamble

Para. 2: The second part of the paragraph, starting with "whilst noting", could become a separate preambular paragraph.

Para. 6: Resolution 46/169 of 19 December 1991 could be included in the list of UNGA resolutions on Protection of global climate for present and future generations of mankind.

Para. 10: The drafting of this long and complex text will need to be carefully reviewed after its substance is agreed; its language will need to be harmonized with that of the related commitments.

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* References to lines of text are to the final version of document A/AC.237/18 (Part I), annex II.

Para.11: There is no explicit reference to UNEP.

In line 4, "for" could be replaced by "to" ("contributions ... to").

Para. 12: This text would need to be harmonized with the related commitments.

The second part of the paragraph, starting with "and recognizing", could be made the subject of another preambular paragraph or merged with the end of paragraph 10 or with paragraph 11.

Para. 15: This paragraph could end at "poverty" and the remaining text considered in conjunction with paragraph 16, which also relates to the promotion of economic growth.

Para. 16: This idea might be better constructed in a different order, as follows: "Recognizing that the economic growth and sustainable development of developing countries, which are [essential] [prerequisites] for their participation in international efforts to address climate change, require the improvement of the international economic environment".

Paras. 18 and 19: The language of these two paragraphs should be harmonized with the relevant provisions of Article 4.3 on Special Situations.

Definitions (Art. 1) Use of the word "anthropogenic".

(a) "Anthropogenic" is defined by the Concise Oxford Dictionary as "originated by man". It can be properly applied as an adjective to "emissions" or to "greenhouse gases" as in the proposed definitions thereof. Its usage as a qualifier of "activities" or "activity", as in the alternative definitions of "net emissions", is doubtful. Is it the activities that are originated by man or the effects of those activities? It would be simpler and also accurate in these cases to use the word "human", thus giving "as created or modified by human activities" and "resulting from human activity". This would be in line with the proposed definition of "climate change", which includes the phrase "which is attributed directly or indirectly to human activity".

(b) In the interest of promoting public awareness, it might be best to limit the use of "anthropogenic" in the Convention and to use "human" or "resulting from human activity" or similar formulations, as appropriate (See e.g., Articles 2.3, 3, 4.2.1 (e), and Annex I. 2 (b) (iii)).

"Net emissions" - second proposed definition

Suggested redraft: Replace phrase starting with "taken" by "calculated over a specified area and period of time according to agreed criteria".

"Precursors" of greenhouse gases.

(a) The point made in footnote 1, on the need for an explicit mention of "precursors" when needed, is well taken. It will be necessary to identify those places in the Convention where the expression "greenhouse gases and their precursors" would be appropriate.

(b) Consideration may be given to including a reference to "precursors" in the definition of "reservoir" and in the second option for the definition of "sink".

Comments by IPCC on proposed definitions

- In accordance with Note 2 to Article 1, the Executive Secretary has asked the Secretary of IPCC (by letter of 12 March 1992) to provide the most representative comments possible from IPCC, given that the Panel
itself will not be meeting before the second part of the fifth session of the INC. Advice has been sought on those definitions which call for scientific opinion, namely, all the terms in the "first set" as well as "aerosols" and "global observing network", which are referred to in Note 1.

Principles (Art. 2)

Para. 1: In the last sentence, the imperative "must" could be better rendered by "will have to" or "will need to".

Para. 2: In the sixth line, "man-made" would be superfluous if the proposed definition of "climate change" is retained.

Para. 3: In the first line, "global" is perhaps rendered superfluous by the proposed definition of "climate system".

Para. 4: This language should be harmonized with Article 4.3.

Paras. 6 & 7 are related and could be combined.

Para. 8: The first phrase of the second sentence, starting "By openly demonstrating", could be better conveyed as "In cases where their direct responsibility or negligence can be openly demonstrated".

Objective (Art. 3)

Line 3: The reference to Principles should be considered as subject to footnote 2 appended to the same reference in Article 4.1 (chapeau).

Line 5: "Anthropogenic" is perhaps superfluous. It is difficult to imagine any interference other than human that is susceptible to action by the Parties to the Convention. If, nevertheless, the concept is to be retained, "human" would be a simpler alternative.

Commitments (Art. 4)

Art. 4.1.1. (chapeau)

- This is a case where it might be useful to specify that the Parties commit themselves to act individually and collectively.

- Is this chapeau intended to cover also the commitments in Article 4.2 and 4.3? If so, the language of the chapeau and the structure and numbering of the paragraphs in Article 4 would need to be reviewed.

- If this Article is retained as a distinct section of Article 4 (with or without a title such as "General Commitments"), it will consist of a single paragraph. Consequently, the chapeau will not be numbered and subparagraphs will be referred to as "4.1 (a)", "4.1 (b)", etc. rather than "4.1.1 (a)", "4.1.1 (b)". This would be editorially consistent with, for example, Articles 4.2, 22 and 27.

Art.4.1.1. - A bracketed proviso regarding "[agreed]/[full] incremental costs" occurs in four different sub-paras: (b), (c), (d) and (e). As in the version in subpara. (c), these clauses should refer to the "provision of funding for ... costs", rather than to the "provision of ... costs".

Art. 4.1.1(c) - The term "practices" appears in both the first and third lines.

- Is it intended that footnote 3 will be retained in the Convention?

Art.4.1.1 (c) and (d) - These are complex texts the drafting of which will have to be reviewed after agreement is reached on their substance.

Art. 4.1.1 (e) and (f) - 4.1.1(e) and (f) both deal with adaptation measures and could be combined. Reference to the special situation of countries affected by drought and desertification could be incorporated into subpara.(e) and subpara.(f) deleted.

- If subpara (f) is retained, its drafting could be improved by referring to "countries affected by drought and desertification".

Art. 4.1.1(g) - The division of this subpara into two elements, (i) and (ii), is not in accordance with the other subparas. The two elements could be merged.

Art. 4.1.1(h),(i) & (j) - The last bracketed phrase [in accordance with Article 5], [6] [7] could be redrafted as follows:

In the manner set out in Article [5], [6], [7].
(See Chapter II, para. 16, above).

Art. 4.1.1(j)

What "process" is referred to in the phrase "... encourage the widest participation in the process, including by non-governmental organizations ..."? If this reference is to the process of education, training and public awareness, then it could be made clearer by saying "in this process".

Art. 4.3.1

Paras. (c) and (e) seem very similar in substance and could be combined.

Art. 4.3.4

- The substance of Article 4.3.4 is largely covered by Article 4.3.1 (h), except that the former is not limited to developing countries.

- If Article 4.3.4 is retained, the Articles referred to in line 1 should be made explicit.

Art. 4.3.5

- In line 1: "the acceptance and" could be deleted so as to avoid conveying the impression of a reservation; flexibility in implementation should suffice for the purpose of this paragraph.

- The entire paragraph could read as follows:

"[5.* The Parties recognize that, in the implementation of the commitments in the Convention, a certain degree of flexibility has to be allowed to those Parties with economies that are in transition from a centrally planned system to a market economy, in order to enhance the ability of these Parties to cope with climate change.*]

Education, Training and Public Awareness (Art. 7)

Para. 3 (b): In the Alternative to para. 3(b) (ii), it might be preferable to use "establish and strengthen" rather than "build". In order to be consonant with the chapeau of 3(b), this sub-para. could read:

> "Assisting developing countries, in the long term, to establish and strengthen their own institutions."

Conference of the Parties (Art. 8)

Para. 2 (chapeau), line 3: Insert "shall" between "and" and "make"

Para. 2(a), line 1: Should "obligations" be replaced by "commitments"?

Para. 2(b): This paragraph covers a similar function to that of Article 10, Option 1, para. 2(d). It would be necessary to ensure that these functions are complementary, taking into account that all subsidiary bodies are subordinate to the Conference of the Parties.

Para. 2(b), line 2: Insert "in order" before "to assess...".

Para. 2(c) could be combined with para. 2(n). The new formulation could read as follows:

> "Establish such subsidiary bodies as are deemed necessary for the [implementation] [operation] of the Convention, consider reports submitted by its subsidiary bodies [and perform ...];"

Paras. 2(c), 2 (f) (Alternative) and 2 (g) contain similar language, referring to functions assigned by other Articles. It could be merged as follows:

> "Perform the functions assigned to it under Articles 10, 11, 12, 13 and 15."

Para. 2(i): It would be desirable to qualify "policies, strategies and measures". For example, it might be appropriate to add "national" before "policies" or alternatively, to insert "adopted by Parties" after "measures".

Para. 2(k): This subject is also covered by para. (l).

Para. 2(m): The reference in para. 2(m) to "[on cooperation related to transfer of technology]" should be read in conjunction with para. 2(f) and the language harmonized.

Para. 2(o): This paragraph conflicts with Art. 10, Option 1, para. 6 which allows the [Committee/Council] to adopt its own rules of procedure. In order that subsidiary bodies might operate effectively between sessions of the Conference of the Parties, they might need some leeway for amending their procedures.
Para. 2(o): Rules of procedure are normally adopted by consensus.

Para. 2(s): It might be necessary to specify to whom these "recommendations" would be addressed.

Once the content of the above subparagraphs is determined, their order could be reconsidered.
N.B. The functions in Article 4.2.1 (b), (c), (d) & (e) are not explicitly reflected in the functions enumerated for the Conference of the Parties.

Para. 3: This and other paras. refer to "the first meeting" of the Conference of the Parties. In United Nations usage, the proper term would be "the first session"; "meetings" are components of a session (as in the case of the INC).
Para. 3: Retention of the words "by consensus" would render the identical phrase in para. 2(o) superfluous.

Para. 6, Option 1: The Office of Legal Affairs has advised that in the first two lines of Option 1, the first square bracket needs to be clarified. The phrase now reads "The United Nations, its specialized agencies and the International Atomic Energy Agency, as well as any State [member or observer of the United Nations or of its specialized agencies]". The word "State" could modify both "member" and "observer". The term "any observer" would embrace not only non-member States maintaining permanent observer missions at Headquarters, but also intergovernmental organizations having received a standing invitation to participate in the sessions and work of the General Assembly as observers and Palestine. The intention must be made clear whether "observer" is limited to "any State observer" or is meant to embrace "any observer". If the latter is the intention, the text should be redrafted as follows:

"as well as any State [member thereof or any observer thereto]".

The second square bracket in the line which begins "and permanent observers to" should be changed to read "or any observer to".

Para. 6: Option 2: This would need to be revised in light of the above advice.

Secretariat (Art. 9)

Para. 2(e): Could be redrafted to read: ..."coordination with the secretariats of other relevant ... bodies"

Para. 2(f): Could be redrafted to read: ..."To perform other secretariat functions specified in this Convention ..."

Para. 3: This paragraph would need to specify the identity of the "ad hoc secretariat". If it is so intended, the reference could be to "the secretariat established by GA resolution 45/212".

[Implementation Committee] [Executive Council] [Functions] (Art. 10)

Option 1

Para. 2(b): What is meant by "prepare .. the deliberations" of the Conference of the Parties?

Para. 2(c): What is meant by "Oversee"?

Para. 2(d), line 1: Perhaps "commitments" is really intended here in place of "obligations" - particularly since the review would be carried out through an evaluation of national reports.

NB. There is a need for complementarity between this function and Article 14 (Reporting).

Para. 2(d)(i), line 3: "Development of national climate change strategies" might become a commitment (see Article 4.1(b)) but does not seem to be a "reporting requirement". This ambiguity could be clarified by replacing "including" (line 3) by "and on".

Para. 2(e): "review process" needs clarification.

Para. 2(f): Normal practice is for a savings clause to be placed at the very end of the subparagraphs. Thus, para. 2(f) should follow 2(g).

Para. 5: This could be redrafted to read more clearly:

> "The [Committee/Council] shall elect from among its members a Chairman, two Vice-Chairmen and a Rapporteur, each to serve for a term of two years, and who may be reelected to serve additional terms."

Alternatively, this matter could be left to the rules of procedure, as is normally the case.

Para. 6: See comment on Article 8, para. 2 (o) above.

Option 2

If this option were chosen, its proper placement in the Convention would need to be considered. Would it stand alone as a separate article or, as it empowers the Conference of the Parties to establish a subsidiary body with certain functions, could this text be subsumed under Article 8?

Para. d(ii) provides for a "body" to determine whether a report "has been submitted, and whether the report is complete." The criteria by which such determination is to be made should either be included in the Convention or adopted by the Parties to the Convention at a later stage.

Para. (g): This para. refers to Article 16 (Settlement of Disputes). However, the said Article, as presently drafted, does not assign any functions to the body responsible for implementation.

Art. 10

There is no provision in any of the options for the [Implementation Committee] [Executive Council] to report on its activities to the Conference of the Parties. Para. 2(c) of Art. 8 states that the Conference of the Parties shall "consider the reports submitted by its subsidiary bodies." Therefore, it is suggested to add a new para. to the option to be chosen, which would read as follows:

> "Report regularly to the Conference of the Parties on all aspects of its work;"

[Advisory Committee On Science] [And Technology] [Climate Protection And Development] (Art.11)

Para. 3, Alternative A: The phrase "[selected by the Conference of the Parties by methods to be decided at its first meeting]" would be improved if "set out in the rules of procedure" were inserted after "methods". This would ensure that future decisions taken under this paragraph would be guided by a standard procedure.

It might be useful for the Conference of the Parties to indicate how it would define the phrase "[, ... in terms most useful to it]".

Should para. 3 Alternative A be retained, it is suggested that para. 2 of Article 11 could serve as a chapeau for the functions enumerated therein. The first para. of Alternative A could be placed at the end of the list of functions.

Alternative C, line 4: Replace "to integrate" by "become part of".

The phrase "the new regime for cooperation in climate change as set forth in" could be omitted.

N.B. As requested by the Co-Chairmen of Working Group II, a legal opinion on the feasibility of Alternative C has been sought from the Legal Counsel of the United Nations.

[Administrative] [Independent Funding] Mechanism for Financial Resources and Technology Transfer] [International Climate Fund] (Art. 12)

Option 1

Alternative A, line 8: The reference to the "Executive Committee" is inconsistent with Article 10 which refers to an "[Executive Council]".

The functions of policy development and monitoring enumerated under this paragraph are similar to those attributed to the Conference of the Parties in para. 2(f) of Article 8.

Para. 2 (a) - (d): These functions are interrelated; the subparas. could be reordered so that subpara. (c) would appear first. Alternatively, subparas. (b), (c) and (d) could be subsumed in (a), which is of a more general nature, and much of the detail therein could be transferred to the financial rules.

Para. 2 (o): The question arises as to whether this function should be part of the financial mechanism (Article 12), the implementation mechanism (Article 10) or, as provided in Article 4.2.1 (d), the Conference of the Parties.

Para. 2(q): Is "flexibility" the appropriate word in relation to intellectual property rights ?

Option 2

Para. 2 (chapeau): Are the rules of procedure referred to those of the GEF or those of the Conference of the Parties?

Footnote 10: The import of this footnote is unclear. It is presumed that it will not be retained in the final text of the Convention.

N.B. It will be recalled that the texts contained in Section IV.2.2., paras. (b) and (c), and Section IV.2.3, para. (b), of the Consolidated Working Document (Annex II to document A/AC.237/15) were referred by the Plenary to Working Group II (see A/AC.237/18 (Part I), para. 11 (c)). These texts concerned, inter alia, the objects of assistance through the financial mechanism and the means of transfer of technology. May it be assumed that the Revised Text reflects considerations given to these texts by Working Group II?

[[Insurance] [Small Island and Low Lying States] (Art. 13)

Option 2

The substance of this paragraph is very similar to the text in Article 4.3.1 (a) & (b).

N.B. If Annex IV is not retained in the framework Convention, references to it will have to be removed from Article 13.

Reporting (Art. 14)

Para. 2: The timing of initial reports by different categories of countries (presently stated as "x", "y" and "z" years after entry into force) needs to be specified.

Para. 3: The phrase "shall be assisted" does not indicate who would provide such assistance.

- What is meant by "implementation" in this context? Is it the implementation of measures proposed in such reports?

- Article 9.2 (d) and Article 10, Option 2, para. (c) provide that assistance to Parties in meeting reporting requirements shall be made at the Parties' request. This qualification is not made in this paragraph.

Para. 8: It is suggested to redraft this para. as follows:

> **"[8.[,Subject to Annex II,] The manner in which reports would be prepared and their content should be determined by the individual Party.]"**

N.B. Careful attention should be paid to harmonization and cross-referencing between Article 10 and this Article.

If Annex II is not retained in the framework Convention, references to it will have to be removed from Article 14.

Resolution of Questions regarding Interpretation and Implementation of the Convention (Art. 15)

Para. 1: The phrase "may notify its concern, through the secretariat to the Conference of Parties" implies that the secretariat would need to transmit this notification to the Conference of the Parties. Provision, therefore, could be made in Article 9 to this effect.

Para. 6, Option 1: Does the phrase "any Party" (line 2/3) refer to "notifying Party" or indeed to "any Party"? If it is the former, then it would be clearer to insert "by the notifying Party" after "submission" (line 1), and replace "any" before "Party" (line 2) by "such". In addition, "questions" (line 2) should be in the singular. Thus redrafted, this para. would read:

> "6. If, after the expiry of ... months following the initial submission by the notifying Party of any question to the secretariat pursuant to paragraph 1 of this Article, such Party continues to have a concern relating to the [interpretation or] implementation by another Party of its obligations under the Convention, it shall be entitled to invoke the dispute settlement procedures, established by Article [16] (Settlement of Disputes) of the Convention."

Para. 6, Option 2: The Office of Legal Affairs has advised that in order to ensure that the parties to the dispute do not invoke both mechanisms concurrently, and thus avoid conflicting jurisdictions in respect of the same dispute and between the same parties, Option 2 should be amended to clarify that although a party is allowed to access either dispute settlement mechanism or both mechanisms sequentially, it is precluded from invoking them concurrently. For example, the text could read:

> "The application of the provisions of this Article are without prejudice to the subsequent application of the provisions of Article [16] (Settlement of Disputes) of the Convention".

Settlement of Disputes (Art. 16)

Para. 2, line 4: Replace "in application" by "or application".

Option 1

Para. 6, line 1: Replace "created" by "established".

Option 2

Para. 5, line 3: After "Tribunal", add "referred to in Article 3(i) of Annex III".

Para. 6, line 5: The phrase "both means" could be made more explicit by the following redraft: "... or if they have accepted both means as set out in para. 2 (a) and (b) of this Article ..."

N.B. If Annex III is not retained in the framework Convention, references to it will have to be removed from Article 16 and some consequential redrafting undertaken with respect to references to the Arbitral Tribunal.

Amendments to the Convention (Art. 17)

Para. 2, last sentence: This could be redrafted as follows:

> "The secretariat shall also communicate proposed amendments to the Signatories to the Convention and to the Depositary, for information".

The Office of Legal Affairs advises that the entry into force of an amendment requires the Parties to deposit instruments of acceptance only. Consequently, paras. 3, 5 and 6 could be redrafted as follows:

Para. 3, last sentence:

"The adopted amendment shall be communicated by the secretariat to the Depositary, who will circulate it to all the Parties for their acceptance."

Para. 5:

"Instruments of acceptance in respect of an amendment shall be deposited with the Depositary. An amendment adopted in accordance with paragraph 3 above, shall, [unless otherwise provided in the amendment itself,] enter into force for those States having accepted it on the ninetieth day after the date of receipt by the Depositary of an instrument of acceptance, by at least..."

Para. 6:

"6. The amendments shall enter into force for any other Party on the ninetieth day after the date on which that Party deposits with the Depositary its instrument of acceptance of the said amendments."

Protocols (Art. 18)

The draft Article on protocols does not specify voting rules for their adoption.

Para. 1, line 3: This is the only reference to "[comprehensive] purposes and principles" established in the Convention. If this is intended to refer to the Objective set forth in Article 3 and the Principles in Article 2, this should be stated explicitly.

Arts. 18 & 19 It would be logical for Article 19 on Annexes to precede Article 18 on Protocols, since annexes are an integral part of a convention and protocols are not.

Adoption and Amendment of Annexes to the Convention (Art. 19)

Para. 2, line 2: Replace "Article [VII.3] by "Article 17".

Para. 3, line 3: Replace "the date on which the Depositary issues notices" by "the date of the communication by the Depositary".

Para. 5, line 2: Replace "amended Annex" by "amendment to an Annex".

N.B. The language of Article 19 will need to be reviewed depending on whether Annexes are to be included in the framework Convention. The present text presupposes their inclusion, and hence refers to "additional" annexes - meaning those not adopted simultaneously with the Convention. If no Annexes were so adopted, references to "additional" annexes would have to be omitted and consequential amendments made.

Depositary (Art. 21)

After the word "Convention", add: "and of Protocols adopted in accordance with Article 18".

Signature (Art. 22)

Line 4: After "and", insert "thereafter"

On the basis of advice from the Office of Legal Affairs, it is proposed that the first part of this paragraph should be redrafted as follows:

> "This Convention shall be open for signature by States that are Members of the United Nations or of any of the specialized agencies or that are Parties to the Statute of the International Court of Justice and by regional economic integration organizations at ...".

Entry into Force (Art. 24)

Para. 1: The Depositary would need guidance on the calculation of "[net] emissions" and of shares thereof in a global total, required by Options 2, 3, & 4.

"[Net] emissions" from a regional economic integration organization would be interpreted to comprise "[net] emissions" from all its member States.

Para. 2, line 5: Replace "it" by "the Convention".

Withdrawal (Art. 26)

Para. 2: In the first line, delete the word "its"; in the second line, after the word "Depositary", insert the words "of the notification of withdrawal"; and, after the word "in", on the second line, add the words "the said notification.".

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Agenda item 3

COMPLETION OF A FRAMEWORK CONVENTION ON CLIMATE CHANGE

Technical review of the revised text under negotiation

Addendum

The present addendum contains the annexes referred to in document A/AC.237/Misc.21.

Annexes

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ANNEX I

Consistency of terminology

Adequate, new and additional financial resources

- Preamble 10: "[...the provision to developing countries of **adequate, new and additional financial resources** [based on assessed contributions by developed countries]"
- Art. 4.2.2: "Developed country Parties [may provide on a voluntary basis]/[shall commit to the fund established under this Convention, through assessed contributions, **adequate, new and additional] financial resources**, [separate from agreed Official Development Assistance (ODA) levels] ..."
- Art. 4.2.4: "[(a) Developing country Parties shall [in accordance with the Objective and Principles stipulated in Articles 2 and 3 and in accordance with their national development plans, priorities, objectives and specific country conditions] [consider taking feasible]/[undertake] measures to mitigate climate change [through control of [their net] emissions of greenhouse gases [and maintenance and enhancement, where appropriate, of sinks and reservoirs]], [provided that the [agreed]/[full] incremental costs involved are met by the provision of **[new, adequate and additional] financial resources** from the developed country Parties].]"
- Art. 4.2.4: "[(b) Compliance with this Convention by developing country Parties will be dependent upon the effective implementation of the provisions of this Convention on **financial resources** and transfer of technology.]"
- Art. 8: "(f) [Provide policy direction and establish criteria [including priorities and selection of projects] for the functioning of the mechanism[s] for **financial resources and transfer of** [environmentally safe] technology]"
- Art. 8: [(j) Seek to mobilize **[new and additional] financial resources** in accordance with Article [4.2.2]]"
- Art. 10 (option 3): "[(a) ensure [the provisions of **adequate, new and additional financial resources** and transfer of technology on preferential and non-commercial terms for] the implementation of the decisions of the Conference of the Parties [by developing country Parties]]"

- Art. 14(1): Each Party [shall], [in accordance with its capabilities,] prepare, submit and periodically update a report containing the information [set forth in Annex II] including the measures it is taking to implement the Convention. [For developing country Parties, the fulfilment of this obligation will be conditional on the availability of corresponding **new and additional financial resources.**] [The availability of financial resources from the financial mechanism shall be contingent upon the full implementation of this obligation.]
- Annex II(1)(i)(option 1): "[Effective measures in fulfilment of obligations and specific commitments relative to the provision of **adequate, new and additional financial resources**, and access to and transfer of environmentally sound technology on a preferential and non-commercial basis, contributions to the financial mechanism of the Convention and description of programmes for technological cooperation]"
- Annex IV(1)(c): **"The financial resources of the Pool should be new, additional and adequate"**

Economies dependent on fossil fuels

- Preamble 19: "["Acknowledging the specific transitional difficulties of those countries, particularly developing countries, whose **economies are particularly dependent on fossil fuel** production, use and exportation, as a consequence of action taken on limiting greenhouse gas emissions and that these difficulties will need to be recognized in the development of protocols under this Convention]"
- Art. 4.3.1(h): **"countries whose economies are highly dependent on income generated from the production, processing and export, and/or on consumption of fossil fuels and associated energy intensive products"**
- Art. 4.4: "[The Parties shall, in accordance with Articles ... take into consideration, in the implementation of the commitments of the Convention, and in the adoption of concrete measures, the situation of Parties, particularly developing country Parties, whose **economies are highly dependent on the production and/or export of fossil fuels and associated energy intensive products and/or the use of fossil fuels** for which such Parties have serious difficulties in switching to alternatives.]"

Emissions

- Preamble 2: "[net] emissions"
- Preamble 12: "[excessively high per capita rates of anthropogenic carbon dioxide emissions]"
- Preamble 14: "emissions of greenhouse gases"
- Preamble 17: "[net emissions of developing countries]"
- Preamble 19: "greenhouse gas emissions"
- Art. 1: "'Emissions' means the release of greenhouse gases into the atmosphere [over a specified area and period of time.]"
- Art. 1: "['Net emissions' means the difference between the amount of a greenhouse gas released to and the amount removed from the atmosphere by all sources and all sinks, respectively, as created or modified by anthropogenic activities, taken over a specified area and period of time, as calculated by agreed criteria.]"
- Art. 2.1: "Net emissions of developing countries"
- Art. 2.3: "Anthropogenic carbon dioxide emissions"
- Art. 2.3: "emissions of greenhouse gases"
- Art. 2.8: "emissions of greenhouse gases"
- Art. 3(para. 2): "anthropogenic emissions of [all] greenhouse gases"
- Art. 3(para. 2): "net [carbon]/[greenhouse gas component] emissions
- Art. 4.1.1(b): "[net] emissions of greenhouse gases"
- Art. 4.1.1(k): "net emissions of greenhouse gases"
- Art. 4.1.1(l): "emissions of greenhouse gases"
- Art. 4.2.1(a): "anthropogenic emissions of greenhouse gases"
- Art. 4.2.1(a): "emissions of [carbon dioxide]/[the total of all greenhouse gases not covered by the Montreal Protocol"
- Art. 4.2.1(a)(alt.): "emissions of carbon dioxide and other greenhouse gases"
- Art. 4.2.1(a)(further alt.): "net anthropogenic emissions of greenhouse gases"
- Art. 4.2.1(a)(further alt.): "net emissions of carbon dioxide and other greenhouse gases not covered by the Montreal Protocol"
- Art. 4.2.1(e): "anthropogenic emissions of carbon dioxide and other greenhouse gases"
- Art. 4.2.1(e)(alt.): "[net] anthropogenic emissions of carbon dioxide and other greenhouse gases"

- Art.4.2.4(a): "[... net] emissions of greenhouse gases"
- Art. 10(Option 2)(d)(iii): "estimated [net] greenhouse gas emissions"
- Art. 10(Option 2)(d)(v): "estimated [net] greenhouse gas emissions reductions"
- Art. 12(Option 1)(alt. B)(2)(o): "emissions [of greenhouse gases]"
- Art. 17.3: "[net] emissions of [greenhouse gases] [carbon dioxide]"
- Art. 17.3: "estimated global [net] [carbon dioxide] [greenhouse gases] [emissions"
- Art. 17.5: "[net] emissions of greenhouse gases"
- Art. 24.1(option 2): "[net] emissions of greenhouse gases [CO_2]"
- Art. 24.1(option 2): "estimated total global net emissions"
- Art. 24.1(option 3): "[net] emissions of greenhouse gases [CO_2]"
- Art. 24.1(option 3): "estimated total global net emissions"
- Art. 24.1(option 4): "[net] emissions of greenhouse gases [CO_2]"
- Art. 24.1(option 4): "estimated total global net emissions"

Incremental costs

- Art. 4.1.1(b): "[subject in the case of developing countries to the provision of [agreed]/[full] incremental costs by developed country Parties]"
- Art. 4.1.1(c): "[subject to the provision of funding for developing countries of [agreed]/[full] incremental costs]"
- Art. 4.1.1(d): "[subject to, in the case of developing country Parties, their national development plans and programmes and the provision of [agreed]/[full] incremental costs involved]"
- Art. 4.1.1(e): "[on the basis of provision to developing countries of [agreed]/[full] incremental costs involved]"
- Art. 4.2.2: "[full]/[agreed] incremental costs of developing country Parties"
- Art. 4.2.4: "[provided that the [agreed]/[full] incremental costs involved are met by the provision of [new, adequate and additional] financial resources from the developed country Parties].]"

- Art. 12(Option 1)(alt.B)(possible add'l text): "The financial mechanism shall include a Climate Fund which shall be administered as a Trust Fund by the Global Environment Facility of World Bank/UNDP/UNEP. The Climate Fund shall meet on a grant or concessional basis the **agreed incremental costs** of developing countries referred to in Article . . .]"
- Art. 12(Option 2)(1): "**agreed incremental costs** of implementing this convention"
- Art. 12(Option 2)(2)(c): "**agreed incremental costs** of implementing this Convention"
- Art. 12(Option 3)(2)(a): "**full incremental costs**"
- Annex II(1)(Option 2)(h): "estimated gross and **incremental costs**"

Indigenous/Endogenous Technologies/Capacities

- Art. 4.2.3: "**endogenous capacities and technologies** in developing countries"
- Art. 5(2)(Option 1): "Parties that do not have the **indigenous capability** to undertake research and development will be ensured assistance in these areas.]"
- Art. 8(2)(m): "Consider questions [on cooperation related to **transfer of technology**] [**and endogenous capacity building**, in particular in developing countries;]]"
- Art. 11(3)(c): "**endogenous capacity building**"
- Art. 12(Option 1, alt. B)(2)(l): "Ensure the development of **endogenous capacity building** in developing country Parties, including technologies in the public domain"
- Art. 12(Option 3)(2)(o): "development of **endogenous capacity building**"

Interpretation/implementation/application of the Convention

- Art. 15.1: "**[interpretation or] implementation of the Convention**"
- Art. 16.1: "**Interpretation or application of this Convention**"

Enhancement of sinks and reservoirs

- Art. 4.1.1(d): "..**management** and enhancement.."
- Art. 4.2.1(a): "..**the protection** and enhancement.."
- Art. 4.2.1(e): "..**the enhancement**"
- Art. 4.2.4(a): "..**maintenance** and enhancement..."

Measures/policies/programmes/strategies

- Preamble 12: "... comprehensive **response strategies** at the global, national and [, where agreed, regional] levels which take into account all greenhouse gases, with due consideration of their relative contributions to the enhancement of the greenhouse effect and recognizing also that **strategies** required to understand and address climate change ..."
- [Preamble 21: "Recognizing that **climate policies** should be as cost-effective as possible in order to ensure maximum benefits from **measures** undertaken,]"
- Art. 2, para. 2: "**Measures** to guard against man-made climate change should be integrated into all relevant national development programmes ..."
- Art. 2, para. 9: "[**Climate policies** should be cost-effective to ensure global benefits at lowest possible costs. To achieve this, **climate policies** should be comprehensive, include all relevant sources and sinks of greenhouse gases, comprise all economic sectors, [include both limitation and **adaptation measures**] and may be implemented in cooperation with other Parties.]
- Art. 4.1.1(b): "Formulate, implement, publish, and regularly update national and where appropriate regional [**strategies and**] **programmes containing** [**nationally determined**] **measures** ..."
- Art. 4.1.1(d): "..**measures** against the degradation..**measures** to combat drought and desertification.."
- Art. 4.2.1(a): "..**measures** on mitigation of climate change..similar **policies and measures**.."

- Art. 4.2.1 (further alt. to subpara. (a) "... **national policies and ... corresponding measures**". These developed country **policies and measure** ..."
- Art. 4.2.1 (further alt. to (a): "..**measures** on the limitation of..greenhouse gases..country **policies and measures**.."
- Art. 4.1.1(d): "take **measures** [with the aim to elaborate **policies**] against the degradation of ecosystems"
- Art. 4.1.1(g)(i): "social, economic and environmental **policies** and actions.."
- Art. 4.1.1(g)(ii): "..**measures** taken by the Parties to mitigate or adapt to climate change"
- Art. 4.2.1(a): "The developed country Parties [as defined in ..] shall adopt national **policies** and take corresponding **measures** on [mitigation of climate change]/[the limitation of anthropogenic emissions of greenhouse gases.."
- Art. 8.2(i): "..exchange of information on, and the coordination, as appropriate, of **policies, strategies and measures** to address climate change"
- Art. 14.1: "..report containing the information [set forth in Annex II] including the **measures** it is taking"
- Annex II [Reporting 1(c) of option 1: "The **measures** it is taking to implement this Convention.."
- Annex II [Reporting 1(c) of option 1: "including ... **national [strategies and] programmes;**"
- Annex II para. 1 [(c)] of option 2: "**[measures] [national strategies] [policies]** ... to **mitigate** ... **to climate change;**"
- Annex II para. 1[(d): "... **measures and policies described under (c)]**"

Prerequisite/Essential

- Preamble 16 : "the improvement of the international economic environment..is **[essential]/[a prerequisite]** for enabling developing countries to participate effectively.."
- Art. 2.1(Principle 1): "Economic development is the **prerequisite** for adopting measures to address climate change"

- Art. 2.11(Principle 11): "The need to improve the international economic environment for the developing countries and to promote.. development are **prerequisite** for enabling countries to participate"

Scientific and other types of knowledge

- Art. 5.1: "..**scientific,[technological,]technical,socio-economic and legal knowledge** relevant to..climate change"
- Art. 6: "relevant **scientific,technological,technical,socio-economic and legal [available] information**"
- Art. 8.2(a): "The implementation and the evolution of **scientific knowledge**"
- Art. 11.3: "The state of **scientific knowledge on sciences....knowledge on sciences** related to climate change"

Technology transfer: Terms of transfer

- Preamble 10: "**technology transfer on [preferential, concessional and non-commercial]/[fair and most favourable] terms]**"
- Art. 4.2.3: "[assured] access to **[environmentally safe and sound] technologies**"
- Art. 4.2.3: "**[on concessional, preferential and most favourable terms]**"
- Art. 10(Option 3)((a): "**transfer of technology on preferential and non-commercial terms**"
- Annex II(1)(i): "**transfer of environmentally sound technology on a preferential and non-commercial basis**"

Technology transfer: Types of technologies

- Art. 4.2.3: "**[environmentally safe and sound] technologies**"
- Art. 5(2)(Option 4): "**environmentally safe technologies**"
- Art. 8.2(f): "**transfer of [environmentally safe] technology**"
- Art. 11(3)(Alt.A)(g): "**innovative, efficient and state of the art technologies and know-how**"

- Art. 12(Option 1, alt.B)(1): "**transfer of [safe and sound] technology**"
- Art. 12(Option 1, alt.B)(2): "**[safe] technology transfer**"
- Art. 12(Option 1, alt.B)(2)(h): "**environmentally sound and safe technologies**"
- Art. 12(Option 1, alt.B)(q): "**transfer of sound technology**"
- Art. 12(Option 3)(2)(k): "**environmentally sound and safe technologies** including those that have been neglected or displaced"
- Art. 12(Option 3)(2)(m): "**requisite technologies**"
- Art. 12(Option 3)(2)(o): "**technologies in the public domain**"
- Annex I(3)(d)(iii): "**technologies which are safe, rational and ecologically sound**"
- Annex II(1)(i): "**environmentally sound technology**"

ANNEX II

Comparison of principles with related elements of the preamble

Principles	Preamble
1. The right to development is an inalienable human right. All peoples have an equal right in matters relating to reasonable living standards. Economic development is the prerequisite for adopting measures to address climate change. The net emissions of developing countries must grow to meet their social and economic development needs.	2. Concerned that [net] emissions resulting from human activities are substantially increasing the atmospheric concentrations of greenhouse gases, and that these increases will enhance the greenhouse effect, resulting on average in an additional warming of the Earth's surface and atmosphere and may adversely affect natural ecosystems and humankind, whilst noting that there are many uncertainties in predictions particularly with regard to the timing, magnitude and regional patterns of climate change,
2. All States have a duty to aim at sustainable development for the benefit of present and future generations. Protection of the global climate against human induced change should proceed in an integrated manner with economic development in the light of the specific conditions of each country, [[without prejudice to the socio-economic development of developing countries]. Measures to guard against man-made climate change should be integrated into all relevant national development programmes [taking into account that [evolving] environmental standards] valid for developed countries may have inappropriate and unwarranted social and economic cocts in particular in developing countries [and countries with economies in transition]].	3. Aware that the adverse effects of such [potential] climate change [and measures to mitigate it] could have [serious] social, economic and environmental consequences,
	12. Recognizing the need for [all] countries [with excessively high per capita rates of anthropogenic carbon dioxide emissions] to take immediate action in a flexible manner on the basis of [short, medium and long term]/[clear priorities, as a first step towards] comprehensive response strategies at the global, national and [, where agreed, regional] levels which take into account all greenhouse gases, with due consideration of their relative contributions to the enhancement of the greenhouse effect and recognizing also that strategies required to understand and address climate change will be environmentally, socially and economically most effective if they are based on relevant scientific, technical and economic considerations and continually re-evaluated in the light of new findings in these areas,
	14. Recognizing that action to reduce emissions of greenhouse gases can also help in solving other environmental problems,

15. Affirming that response to climate change should be coordinated with social and economic development in an integrated manner with a view to avoiding adverse impacts on the latter, taking into full account the legitimate needs of developing countries which have at this time as their main priority the achievement of sustained economic growth and the eradication of poverty, and that therefore the promotion of economic growth in developing countries is essential to address the problems related to climate change,

17. Recognizing that all countries, especially developing countries, need access to [all the] resources required to achieve sustainable social and economic development and that in order to progress towards that goal, [the energy consumption of developing countries must grow, taking into account the need for greater energy efficiency]/[net emissions of developing countries must grow]

20. Bearing in mind the importance of integrating environmental concerns and considerations into policies and programmes in all countries [without introducing any form of conditionality in aid or development financing or constituting a pretext for devising new barriers to trade],

22. Determined to protect the atmosphere for present and future generations [on the basis of inter-generational as well as intra-generational equity],

Principles

[3. All States have an obligation to protect the [global] climate system for the benefit of present and future generation of humankind on the basis of [intergenerational as well as intragenerational] equity, and in accordance with [their]/[developed and developing countries] common but differentiated responsibilities and capabilities [with a view to achieving convergence [of anthropogenic carbon dioxide emissions] at a common per capita level] and taking fully into account that the largest part of emissions of greenhouse gases has been originating from developed countries [and those countries have the main responsibility] [and should take the lead] in combating climate change and the adverse consequences thereof.]

Preamble

4. Acknowledging that the global nature of such climate change calls for the widest possible cooperation by all countries and their participation in an effective and appropriate international response in accordance with [their respective responsibilities and capabilities]/[the means at their disposal and their capabilities] and their social and economic conditions,

10. Recognizing the need to strengthen international cooperation in addressing adverse effects of climate change [through the development within a global framework of appropriate policies [including the provision to developing countries of adequate, new and additional financial resources [based on assessed contributions by developed countries] and technology transfer on [preferential, concessional and non-commercial]/[fair and most favourable] terms], [the preparation of protocols on specific problems]/[the consideration of additional related instruments as may be agreed] and by means of increased research into atmospheric, terrestrial and marine ecology sciences as well as into the social and economic impacts of climate change and related response strategies, systematic observations, cooperation on scientific, technical, economic and legal matters and exchange of information],

22. Determined to protect the atmosphere for present and future generations [on the basis of inter-generational as well as intra-generational equity],

Principles

[4. The Parties shall give full consideration to the specific needs and special circumstances of developing country Parties, especially those developing countries that are particularly vulnerable to the adverse consequences of climate change and also those developing countries which would have to bear a disproportionate or abnormal burden under the Convention.]

Preamble

15. Affirming that response to climate change should be coordinated with social and economic development in an integrated manner with a view to avoiding adverse impacts on the latter, taking into full account the legitimate needs of developing countries which have at this time as their main priority the achievement of sustained economic growth and the eradication of poverty, and that therefore the promotion of economic growth in developing countries is essential to address the problems related to climate change,

18. Conscious that countries with low lying coastal, arid and semi-arid areas or areas liable to drought and desertification, small island countries and countries with fragile mountainous ecosystems are particularly vulnerable to the potential adverse impacts of climate change and will therefore require special consideration under this Convention and its [subsequent protocols]/[related legal instruments],

[19. Acknowledging the specific transitional difficulties of those countries, particularly developing countries, whose economies are particularly dependent on fossil fuel production, use and exportation, as a consequence of action taken on limiting greenhouse gas emissions and that these difficulties will need to be recognized in the development of protocols under this Convention.]

Principles

5. [Recognizing the need for] Parties to [the Convention shall] take [cost-effective] precautionary measures to anticipate [, prevent, attack] or minimize the causes of, and mitigate the adverse consequences of, climate change. [Where there are threats of serious or irreversible damage,] lack of full scientific certainty should not be used as a reason for postponing such measures.

Preamble

2. Concerned that [net] emissions resulting from human activities are substantially increasing the atmospheric concentrations of greenhouse gases, and that these increases will enhance the greenhouse effect, resulting on average in an additional warming of the Earth's surface and atmosphere and may adversely affect natural ecosystems and humankind, whilst noting that there are many uncertainties in predictions particularly with regard to the timing, magnitude and regional patterns of climate change,

[21. Recognizing that climate policies should be as cost-effective as possible in order to ensure maximum benefits from measures undertaken],

Principles

6. States shall promote an open and balanced multilateral trading system. Except on the basis of a decision by the Conference of the Parties which should be consistent with the GATT, no country or group of countries shall introduce barriers to trade on the basis of claims related to climate change.

7. Measures taken to combat climate change should not introduce trade distortions inconsistent with the GATT or hinder the promotion of an open and multilateral trading system.

Preamble

20. Bearing in mind the importance of integrating environmental concerns and considerations into policies and programmes in all countries [without introducing any form of conditionality in aid or development financing or constituting a pretext for devising new barriers to trade],

Principles

[8. Those [developed] countries [identified as] [[directly] responsible for causing damage to the environment through inducing climate change]/[which are mainly responsible for emissions of greenhouse gases into the atmosphere] should bear the responsibility for rectifying that damage [.[By openly demonstrating their direct responsibility or negligence, those countries]/[and] shall compensate for environmental damage suffered by other countries or individuals in other countries].]

Preamble

12. Recognizing the need for [all] countries [with excessively high per capita rates of anthropogenic carbon dioxide emissions] to take immediate action in a flexible manner on the basis of [short, medium and long term]/[clear priorities, as a first step towards] comprehensive response strategies at the global, national and [, where agreed, regional] levels which take into account all greenhouse gases, with due consideration of their relative contributions to the enhancement of the greenhouse effect and recognizing also that strategies required to understand and address climate change will be environmentally, socially and economically most effective if they are based on relevant scientific, technical and economic considerations and continually re-evaluated in the light of new findings in these areas,

Principles

[9. Climate policies should be cost-effective to ensure global benefits at lowest possible costs. To achieve this, climate policies should be comprehensive, include all relevant sources and sinks of greenhouse gases, comprise all economic sectors, [include both limitation and adaptation measures] and may be implemented in cooperation with other Parties.]

Preamble

12. Recognizing the need for [all] countries [with excessively high per capita rates of anthropogenic carbon dioxide emissions] to take immediate action in a flexible manner on the basis of [short, medium and long term]/[clear priorities, as a first step towards] comprehensive response strategies at the global, national and [, where agreed, regional] levels which take into account all greenhouse gases, with due consideration of their relative contributions to the enhancement of the greenhouse effect and recognizing also that strategies required to understand and address climate change will be environmentally, socially and economically most effective if they are based on relevant scientific, technical and economic considerations and continually re-evaluated in the light of new findings in these areas,

[21. Recognizing that climate policies should be as cost-effective as possible in order to ensure maximum benefits from measures undertaken,]

Principles

10. In all fields related to the protection of the climate system, the Parties shall respect and act in accordance with the principle of sovereignty of States, which is applicable in any area of international cooperation.

Principles

11. The need to improve the international economic environment for the developing countries and to promote their sustained economic development are prerequisites for enabling developing countries to participate effectively in the international efforts to protect the global environment including climate prtoection.]

Preamble

5. Recalling the pertinent provisions of the Declaration of the United Nations Conference on the Human Environment (Stockholm, 1972) and in particular principle 21 [which provides that "States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction" [and accordingly that environmental considerations should not be used as a pretext for interference in the internal affairs of developing countries]],

Preamble

16. Recognizing that the improvement of the international economic environment, thus promoting the economic growth and sustainable social and economic development, of developing countries, is [essential]/ [a prerequisite] for enabling developing countries to participate effectively in the international efforts to address climate change,

ANNEX III

Research, information and education: comparison of relevant general commitments and articles 5, 6 and 7

Scientific, Technical and Technological Research, Systematic Observation and Cooperation

Article 4.1

1(h) Promote and cooperate in scientific, technological, technical, socio-economic and other research, systematic observation and development of data archives related to the climate system and aiming to further the understanding and to reduce and clarify the remaining uncertainties regarding causes and effects of climate change and regarding the economic and social consequences of alternative response strategies, [in accordance with Art. 5];

Article 5

1. Each Party shall promote and cooperate in scientific, technological, technical, socio-economic and other research [and development], systematic observation and development of data archives related to the climate system and aiming to further the understanding and to reduce and clarify the remaining uncertainties regarding causes and effects of climate change and regarding the economic and social consequences of alternative response strategies [as elaborated in Annex 1].

Exchange of Information

Article 4.1

1(i) Promote and cooperate in the full, open and timely exchange of relevant scientific, technological, technical, socio-economic and legal information related to the climate system and climate change, and economic and social consequences of alternative response strategies, [in accordance with Article 6];

Article 6

In order to achieve the objective of the Convention, the Parties [shall] [may] facilitate and encourage, [taking into account the special circumstances of developing countries,] directly or [, as far as possible,] through [existing] competent international and intergovernmental organizations, full [, open] and timely exchange of relevant scientific, technological, technical, socio-economic and legal [available] information [as described in Annex ...]. [The Parties recognize that cooperation under this Annex has to be consistent with national laws, regulations and practices regarding patents, trade secrets and protection of confidential and proprietary information.]]

/...

Education, Training and Public Awareness

Article 4.1

1(j) Promote and cooperate in education, training and public awareness related to climate change and encourage the widest participation in the process, including by non-governmental organizations, [in accordance with Article 7];

Article 7

1. In order to increase the understanding of climate change [and the uncertainties surrounding it] and to facilitate appropriate responses, the Parties shall promote education, training and public awareness related to climate change.